

Assembly Bill No. 1548

CHAPTER 915

An act to amend Sections 110005, 110050, 110475, 110480, 110485, 112040, 112115, and 113355 of, to amend and renumber Sections 110780 and 110785 of, to add Sections 109947, 110466, 110467, 110472, 110473, 110474, and 110661 to, and to repeal and add Sections 110460 and 110470 of, the Health and Safety Code, relating to environmental health.

[Approved by Governor October 9, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, Cardoza. Environmental health: food.

Existing law, the Sherman Food, Drug, and Cosmetic Law, contains various provisions regarding the packaging, labeling, and advertising of food, drugs, and cosmetics.

Existing law requires every person upon first engaging in the manufacturing, packing, or holding of processed food in this state to immediately register with the State Department of Health Services and to pay a fee, for deposit into the Food Safety Fund, to be used by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of the law. Existing law also authorizes local health departments to conduct inspections of certain food processing establishments.

This bill would revise and recast these provisions. It would, among other things, provide for the inspection and reinspection of food processing facilities, as defined, and would revise the fees charged for new and renewal registrations including the imposition of different fees in specified counties. The bill would also vest the authority to conduct certain inspections in the State Department of Health Services.

Existing law imposes, until January 1, 2001, a \$100 food safety fee on every person who is engaged in the manufacture, packing, or holding of processed food.

This bill would extend that fee until January 1, 2003.

By creating new crimes and revising the definition of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 109947 is added to the Health and Safety Code, to read:

109947. “Food processing facility” means any facility operated for the purposes of manufacturing, packing, or holding processed food. Food processing facility does not include a food facility as defined in Section 113785, or any facility exclusively storing, handling, or processing dried beans.

SEC. 2. Section 110005 of the Health and Safety Code is amended to read:

110005. “Potentially hazardous food” means any food capable of supporting growth of infectious or toxigenic micro-organisms when held at temperatures above 45 degrees Fahrenheit.

SEC. 3. Section 110050 of the Health and Safety Code is amended to read:

110050. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under subdivision (c) of Section 110466 and Sections 110470 and 110485 and under Article 7 (commencing with Section 110810) of Chapter 5 shall be deposited in the fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this part relating to food, the provisions relating to education and training in the prevention of microbial contamination pursuant to Section 110485, and the registration provisions of Article 7 (commencing with Section 110810) of Chapter 5.

SEC. 4. Section 110460 of the Health and Safety Code is repealed.

SEC. 5. Section 110460 is added to the Health and Safety Code, to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable.

SEC. 6. Section 110780 of the Health and Safety Code is amended and renumbered to read:

110461. It is unlawful for any person to manufacture, pack, or hold processed food in this state unless in a food processing facility duly registered, as provided in this part.

SEC. 7. Section 110785 of the Health and Safety Code is amended and renumbered to read:



110462. It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed in the application for registration or renewal of registration, as provided in this article.

SEC. 8. Section 110466 is added to the Health and Safety Code, to read:

110466. (a) Commencing January 1, 2000, the department shall use the resources provided by the registration fees assessed by this article to inspect new and registered food processing facilities to determine compliance with this part. The department shall target the inspections and adjust their scope, depth, and frequency based on the department's statewide assessment of public health risk potential. In assessing public health risk potential, the department shall consider, at a minimum, the potential and actual health risks associated with processed foods manufactured, packed, or held in this state, and the food safety practices and compliance histories of persons who manufacture, pack, or hold processed foods in this state.

(b) Commencing January 1, 2001, the department, pursuant to this chapter, shall conduct an annual inspection of each registered food processing facility and inspect each new food processing facility prior to issuing a new registration pursuant to Section 110460. This annual inspection requirement may be adjusted or waived based on an assessment of the food processing facility pursuant to subdivision (a).

(c) The department may perform one or more reinspections of each new and registered food processing facility as necessary to prevent repeated or continuing violations of this part and for the purposes of approving the issuance of a new registration. The department shall not charge a separate fee for a first reinspection. The department shall charge a fee of seventy-five dollars (\$75) per hour to cover the costs of performing the second and subsequent reinspections of the same food processing facility within the same registration period.

SEC. 9. Section 110467 is added to the Health and Safety Code, to read:

110467. Any violation of any provision of this part or any regulation adopted pursuant to this part shall be grounds for denying a registration or for suspending or revoking a registration. Proceedings for the denial, suspension, or revocation of a registration shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted in that chapter.

SEC. 10. Section 110470 of the Health and Safety Code is repealed.

SEC. 11. Section 110470 is added to the Health and Safety Code, to read:

110470. A registration application provided by the department shall be completed annually and accompanied by a nonreturnable registration fee.

The fee for a new or renewal registration for a food processing facility shall be as follows:

Holding Food Only:

Fee through 12/31/99	Fee commencing 01/01/2000 through 12/31/2000	Fee commencing 01/01/2001 and ongoing	Fee commencing 01/01/2000 Los Angeles, Orange, San Bernardino Counties and the City of Vernon
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Size of Facility:

0–5,000 sq. ft.	\$257.85	\$300	\$300	\$300
5,001–10,000 sq. ft.	257.85	350	400	350
Over 10,000 sq. ft.	386.77	500	600	500

Manufacturing or Packing of Food:

Fee through 12/31/99	Fee commencing 01/01/2000 through 12/31/2000	Fee commencing 01/01/2001 and ongoing	Fee commencing 01/01/2000 Los Angeles, Orange, San Bernardino Counties and the City of Vernon
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Number of Employees	Size of Facility				
0–2		\$257.85	\$300	\$300	\$300
3–5	0–5,000 sq. ft.	257.85	350	400	350
6–20	0–5,000 sq. ft.	386.77	500	600	500
More than 20	0–5,000 sq. ft.	515.70	700	900	700
3–5	Over 5,000 sq. ft.	257.85	500	600	500
6–20	Over 5,000 sq. ft.	515.70	700	900	700
21–50	Over 5,000 sq. ft.	644.52	935	1,250	850
51–100	Over 5,000 sq. ft.	644.52	985	1,350	850

101–200	Over 5,000 sq. ft.	644.52	1,035	1,450	850
201 or more	Over 5,000 sq. ft.	644.52	1,085	1,550	850

A penalty of 1 percent per month shall be added to any registration fee not paid when due. The fee amount shall be adjusted annually pursuant to Section 100425.

SEC. 12. Section 110472 is added to the Health and Safety Code, to read:

110472. The department, in consultation with the California Conference of Directors of Environmental Health (CCDEH), representatives of the food processing industry, representatives of the local health departments of, Los Angeles, Orange, and San Bernardino Counties, and the City of Vernon, and any other person or entity deemed appropriate by the department shall develop, implement, and evaluate the processed food program in accordance with this chapter. In developing the processed food program, consideration shall be given to all aspects of the program provided for in this chapter.

SEC. 13. Section 110473 is added to the Health and Safety Code, to read:

110473. Notwithstanding the requirements of Section 110470, any person who is required to be registered under this chapter and is operating the food processing facility exclusively for charitable purposes, and meets the requirements of Section 214 of the Revenue and Taxation Code, shall not be required to submit any fees required by Section 110470.

SEC. 14. Section 110474 is added to the Health and Safety Code, to read:

110474. Nothing in this chapter shall relieve a person who has a valid registration to manufacture, pack, or hold processed food issued by the department from any other requirements for licensure, registration, or certification under Article 7 (commencing with Section 110810), Article 12 (commencing with Section 111070), or Part 6 (commencing with Section 111940). The registration fee due to the department under this article from a person who holds one or more licenses, registrations, or certificates issued by the department pursuant to Article 12 (commencing with Section 111070) or Chapters 5 to 10, inclusive of Part 6 (commencing with Section 112150) shall be the fee for the single highest cost license, registration, or certificate only. Cannery inspection fees collected pursuant to Section 112730 and organic processed food registration fees collected pursuant to Section 110875 shall be in addition to any registration fees that may be collected under this article.

SEC. 15. Section 110475 of the Health and Safety Code is amended to read:

110475. Any person registered pursuant to this article shall immediately notify the department of any change in the information reported on the registration application.

SEC. 16. Section 110480 of the Health and Safety Code is amended to read:

110480. The registration provisions of this article shall not apply to any person whose manufacturing, packing, or holding of processed food is limited solely to temporarily holding processed foods for up to seven days for further transport if the foods are not potentially hazardous foods, as defined in Section 110005, or to any person whose manufacturing, packing, or holding of processed food is limited solely to activities authorized by any of the following:

(a) A valid bottled water or water vending machine license issued pursuant to Article 12 (commencing with Section 111070).

(b) A valid pet food license issued pursuant to Chapter 10 (commencing with Section 113025) of Part 6.

(c) A valid permit issued pursuant to Chapter 4 (commencing with Section 113700) of Part 7 to a food facility including a food facility that manufactures, packs, or holds processed food for sale at wholesale, provided the food facility that manufactures, packs, or holds processed food for sale at wholesale does not meet any of the following conditions:

(1) Has gross annual wholesale sales of processed foods of more than 25 percent of total food sales.

(2) Sells processed foods outside the jurisdiction of the local health department.

(3) Sells processed foods that require labeling pursuant to this part.

(4) Processes or handles fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.

(5) Salvages processed foods for sale other than at the retail food facility.

(d) A valid cold storage license issued pursuant to Chapter 6 (commencing with Section 112350) of Part 6.

(e) A valid cannery license issued pursuant to Chapter 8 (commencing with Section 112650) of Part 6.

(f) A valid shellfish certificate issued pursuant to Chapter 5 (commencing with Section 112150) of Part 6.

(g) A valid frozen food locker plant license issued pursuant to Chapter 7 (commencing with Section 112500) of Part 6.

(h) A valid winegrower's license or wine blender's license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code.

(i) A valid milk products plant, margarine, imitation ice cream, imitation ice milk, or a products resembling milk products plant license, issued pursuant to Division 15 (commencing with Section 32501) of the Food and Agricultural Code.



(j) A valid permit issued by a local health department to operate a processing establishment, as defined in Section 111955, that only holds or warehouses processed food, pursuant to Article 1 (commencing with Section 111950) of Chapter 4 of Part 6, provided that all of the following conditions are met:

- (1) The warehouse does not manufacture or pack processed food.
- (2) The warehouse does not hold fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.
- (3) The warehouse is not operated as an integral part of a food processing facility required to be registered pursuant to Section 110460.

(4) The warehouse facilities are located entirely within the area under the jurisdiction of the local health department.

(5) The warehouse does not salvage food as the primary business.

(k) This section shall not be construed to limit the authority of Los Angeles, San Bernardino, and Orange Counties, or of the City of Vernon, to conduct any inspections otherwise authorized by Chapter 4 (commencing with Section 111950) of Part 6.

SEC. 17. Section 110485 of the Health and Safety Code is amended to read:

110485. (a) Every person who is engaged in the manufacture, packing, or holding of processed food in this state shall pay a food safety fee of one hundred dollars (\$100) to the department in addition to any fees paid pursuant to Section 110470.

(b) Revenue received pursuant to this section shall be deposited in the Food Safety Fund created pursuant to Section 110050. A penalty of 10 percent per month shall be added to any food safety fee not paid when due.

(c) Upon appropriation, the food safety fees deposited in the Food Safety Fund shall be used by the department to assist in developing and implementing education and training programs related to food safety. These programs shall be developed in consultation with representatives of the food processing industry. Implementation shall include education and training in the prevention of microbial contamination.

(d) This section does not apply to companies exclusively involved in flour milling, dried bean processing, or in the drying or milling of rice, or to those individual registrants the director determines should not be assessed because substantial economic hardship would result to those registrants. For the purposes of this subdivision, the substantial hardship exemption shall be extended only to registrants whose wholesale gross annual income from the registered business is twenty thousand dollars (\$20,000) or less.

(e) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 18. Section 110661 is added to the Health and Safety Code, to read:

110661. Any food is misbranded if it is manufactured, packed, or held in this state in a food processing facility not duly registered as provided in this part, except for food from facilities exclusively storing, handling, or processing dry beans.

SEC. 19. Section 112040 of the Health and Safety Code is amended to read:

112040. (a) Prior to January 1, 2001, the department, its inspectors and agents, and all local health officers and inspectors may at all times enter any building, room, basement, cellar, or other place occupied or used, or suspected of being occupied or used, for the production, preparation, manufacture, storage, sale, or distribution of food, and inspect the premises and all utensils, implements, receptacles, fixtures, furniture, and machinery used.

(b) Commencing January 1, 2001, only the department, its inspectors and agents, and the local health officers and inspectors of Los Angeles, San Bernardino, and Orange Counties and the City of Vernon may exercise the authority to enter and inspect granted in subdivision (a) except as provided in subdivision (c).

(c) Commencing January 1, 2001, the local health officer or inspector of each city or county, or city and county may exercise the authority to enter and inspect granted in subdivision (a) for the sole purpose of inspecting a food processing establishment that only holds warehouses processed food, provided that:

(1) The warehouse does not manufacture or pack processed food.

(2) The warehouse does not hold fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.

(3) The warehouse is not operated as an integral part of a food processing facility required to be registered pursuant to Section 110460.

(4) The warehouse facilities are located entirely within the area under the jurisdiction of the local health department.

(5) The warehouse does not salvage food as the primary business.

(d) All inspections of food processing establishments conducted by local health departments shall be reported to the department within 60 days. The department shall consider this information when scheduling the department's inspection activities.

SEC. 20. Section 112115 of the Health and Safety Code is amended to read:

112115. This article, with the exception of any licensing provisions, may be enforced by any local enforcement division, which shall be construed to mean the local health department, headed by the duly appointed, qualified and acting health officer of any county, city or city and county. The territory may include one or more counties, cities, or cities and counties.

SEC. 21. Section 113355 of the Health and Safety Code is amended to read:

113355. (a) The primary responsibility for enforcement of this article shall be vested in the local health officers; county agricultural commissioners may participate in enforcement. The State Departments of Health Services, Industrial Relations, and Food and Agriculture may also enforce this article.

(b) Any agency enforcing this article shall report any violation to all field offices of the Employment Development Department located in the county where the violation occurs. The report shall identify the employer responsible for the violation, the nature of the violation, and the location of the food crop growing and harvesting operation where the violation occurs. The Employment Development Department shall not refer persons for employment to any employer or food crop growing and harvesting operation identified in the report until the agency reporting the violation certifies that the violation has been corrected.

SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

